

Attachment A

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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4210. Margin Requirements

(a) Definitions

For purposes of this Rule, the following terms shall have the meanings specified below:

(1) and (2) No Change.

(3) The term "customer" means any person for whom securities are purchased or sold or to whom securities are purchased or sold whether on a regular way, when issued, delayed or future delivery basis. It will also include any person for whom securities are held or carried and to or for whom a member extends, arranges or maintains any credit. The term will not include the following: (A) a broker or dealer from whom a security has been purchased or to whom a security has been sold on a regular way basis for the account of the member or its customers, or (B) an "exempted borrower" as defined by Regulation T of the Board of Governors of the Federal Reserve System ("Regulation T"), except for the proprietary account of a broker-dealer carried by a member pursuant to paragraph (e)(6) of this Rule. The term "customer" includes another broker or dealer (other than an exempted borrower) whenever the member extends, arranges or maintains any credit on behalf of the other broker or dealer, including by entering or maintaining an extended settlement transaction, reverse repurchase transaction, or non-purpose securities borrow transaction with the other broker-dealer.

(4) through (12) No Change.

(13) The term "exempt account" means:

(A) No Change.

(B) any person that:

(i) has a net worth of at least \$45 million and financial assets of at least \$40 million [for purposes of paragraphs (e)(2)(F) and (e)(2)(G)], and

(ii) No Change.

(14) through (16) No Change.

(17) The term “bona fide DVP customer” means a customer with whom the member has a payment on delivery (POD)/collect on delivery (COD) arrangement that satisfies the requirements of FINRA Rule 11860, and, to the extent applicable, provides for prompt affirmation of any non-depository eligible transactions.

(18) The term “extended settlement transaction” means any contract for the purchase or sale of a security (including any exempted security) that does not provide for the payment of funds by the customer (in the case of a customer purchase) or delivery of securities by the customer (in the case of a customer sale) by the second business day after the date of the contract.

(b) through (d) No Change.

(e) Exceptions to Rule

(1) No Change.

(2) Exempted Securities, Non-equity Securities and Baskets

(A) through (H) No Change.

(I) Limits on Net Capital Deductions

(i) Members shall maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraphs (e)(2)(F) and (e)(2)(G) which shall be made available to FINRA upon request.

(ii) In the event that the net capital deductions taken by a member as a result of uncollected margin incurred under paragraph (f)(3) and as a result of marked to the market losses incurred under paragraphs (e)(2)(F) and (e)(2)(G) (exclusive of the percentage requirements established thereunder) exceed:

a. on any one account or group of commonly controlled accounts, 5 percent of the member's tentative net capital (as such term is defined in SEA Rule 15c3-1), or

b. on all accounts combined, 25 percent of the member's tentative net capital (as such term is defined in SEA Rule 15c3-1),

and, such excess exists on the fifth business day after it was incurred, the member shall give prompt written notice to FINRA and shall not enter into any new transaction(s) subject to the provisions of paragraph (e)(2)(F), [or] (e)(2)(G) or (f)(3) that would result in an increase in the amount of such excess under, as applicable, subparagraph (ii).

(3) through (5) No Change

(6) Broker-Dealer Accounts

(A) A member may carry the proprietary account of another broker-dealer, which is registered with the SEC, or otherwise extend credit to such a broker-dealer, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T and Rules 400 through 406 of SEC Customer Margin Requirements for Security Futures and Rules 41.42 through 41.49 under the CEA are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the haircut requirements pursuant to SEA Rule 15c3-1 and, if applicable, Rule 4110(a), shall be charged against the member's net capital when computing net capital under SEA Rule 15c3-1 and Rule 4110(a). However, when computing charges against net capital for transactions in securities covered by paragraphs (e)(2)(F) and (e)(2)(G) of this Rule, absent a greater haircut requirement that may have been imposed on such securities pursuant to Rule 4110(a), the respective requirements of those paragraphs may be used, rather than the haircut requirements of SEA Rule 15c3-1.

(B) No Change.

(7) and (8) No Change.

(f) Other Provisions

(1) and (2) No Change.

(3) ["When Issued"] and ["When Distributed"] [Securities] Transactions and Other Extended Settlement Transactions

(A) [Margin Accounts] General Rule for When Issued and When Distributed Transactions

(i) Except as provided in subparagraph (B):

a. The margin to be maintained on any transaction or net position in each ["when issued"] security shall be the same as if such security were issued[.];

b. Each position in a ["when issued"] security shall be margined separately and any unrealized profit shall be of value only in providing the amount of margin required on that particular position[.];

c. When an account has a "short" position in a ["when issued"] security and there are held in the account securities upon which the ["when issued"] security may be issued, such

“short” position shall be marked to the market and the balance in the account shall for the purpose of this Rule be adjusted for any unrealized loss in such “short” position[.]; and

d. On any extended settlement transaction or net position resulting from extended settlement transactions in a when issued security in a cash account, equity must be maintained equal to the margin required were such transaction or position in a margin account.

(ii) The term “when issued” as used herein also means “when distributed.”

(B) [Cash Accounts] Exceptions to General Rule for When Issued and When Distributed Transactions

[On any transaction or net position resulting from contracts for a “when issued” security in an cash account other than that of a member, non-member broker-dealer, or a “designated account,” equity must be maintained equal to the margin required were such transaction or position in a margin account.]

[On any net position resulting from contracts for a “when issued” security made for with a non-member broker-dealer, no margin need be required, but such net position must be marked to the market.]

(i) On any transaction or net position resulting from contracts for a [“]when issued[”] security in a cash account made with or for [a member or a “designated account,”] an exempt account or a non-member broker-dealer, no margin need be required and such transaction or net position need not be marked to the market. However, where such transaction or net position is not marked to the market, an amount equal to the loss at the market in such position shall be charged against the member’s net capital as provided in SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a), subject to the limits provided in paragraph (e)(2)(I) of this Rule.

(ii) No margin need be required, and no capital charge need be taken for mark to market losses on [The provisions of this paragraph (f)(3) shall not apply to] any position resulting from contracts on a [“]when issued[”] basis in a cash account in [a security]:

[(i)a. any equity security which is the subject of a primary distribution in connection with a bona fide initial public offering by the issuer to the general public for [“]cash[”]; [or]

b. any U.S. Treasury security with a scheduled issuance date no later than the 14th calendar day after the date of the contract;

c. any municipal security with a scheduled issuance date no later than the 42nd calendar day after the date of the contract; and

[(ii)]d. any security which is exempt by FINRA as involving a primary distribution.

(iii) A member may elect not to collect margin from a bona fide DVP customer on any transaction or net position resulting from contracts for a when issued security in such customer's cash account, provided that settlement of the transaction occurs promptly after the securities are made available for delivery, and no later than the 35th calendar day after the trade date, and the member deducts the amount of any otherwise required margin from such member's net capital computed as provided in SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a), subject to the limits provided in paragraph (e)(2)(I) of this Rule.

[The term "when issued" as used herein also means "when distributed."]

(C) Other Extended Settlement Transactions

On any extended settlement transaction or net position resulting from an extended settlement transactions in a cash account, equity must be maintained equal to the margin required were such transaction or position in a margin account, except for:

(i) any transaction or net position resulting from contracts in a when issued security subject to paragraph (f)(3)(B);

(ii) the purchase of a new refunding security, provided that such purchase is made no more than more than 35 calendar days prior to the date of maturity or redemption of an old security of the same issuer that is held in the customer's cash account, and is for an amount that does not exceed 103% of the proceeds of such old security; and

(iii) any extended settlement transaction in the cash account of a bona fide DVP customer if delivery of the security is delayed not more than 35 calendar days after the trade date due to the mechanics of the transaction, and not the customer's willingness or ability to pay, provided that the member deducts the amount of any otherwise required margin from such

member's net capital computed as provided in SEA Rule 15c3-1 and, if applicable, FINRA Rule 4110(a), subject to the limits provided in paragraph (e)(2)(I) of this Rule.

(D) Covered Agency Transactions Not Subject to Paragraph (f)(3)

Paragraph (f)(3) of this Rule shall not apply to any Covered Agency Transaction or to any transaction in Collateralized Mortgage Obligations ("CMOs"), as defined in Rule 6710(dd), issued in conformity with a program of an Agency, as defined in Rule 6710(k), or a Government-Sponsored Enterprise, as defined in Rule 6710(n), for which the difference between the trade date and contractual settlement date is three business days.

(4) through (10) No Change.

(g) and (h) No Change.

••• **Supplementary Material:** -----

.01 through .05 No Change.

.06 Good Faith Account. A Regulation T good faith account, other than a non-securities account, is treated as a margin account for purposes of Rule 4210.

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